

BEFORE THE TENNESSEE REGULATORY AUTHORITY

AT NASHVILLE, TENNESSEE

JANUARY 14, 2002

IN RE:

BELLSOUTH TELECOMMUNICATIONS, INC.  
TARIFF TO INTRODUCE CCS7 ACCESS  
ARRANGEMENT SERVICE

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)  
) DOCKET NO.  
) 01-00440  
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ORDER HOLDING IN ABEYANCE BELLSOUTH'S  
MOTION TO DISMISS JOINT PETITION

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This matter came before the Tennessee Regulatory Authority ("Authority") at a regularly scheduled Authority Conference held on July 24, 2001 for the purpose of hearing oral argument on *BellSouth's Motion to Dismiss Joint Petition* ("*BellSouth's Motion*") filed on June 29, 2001. After hearing argument by the parties, the Authority determined to hold the *BellSouth's Motion* in abeyance.

**Background**

On May 16, 2001, BellSouth Telecommunications, Inc. ("BellSouth") filed its *Tariff to Introduce CCS7 Access Arrangement Service* (Tariff No. 01-00440) (the "Tariff").<sup>1</sup> In its filing, BellSouth stated that CCS7 Access Arrangement Service was a new access service offering and a restructuring of access for Commercial Mobile Radio Service ("CMRS") providers. The *Tariff* was filed on thirty (30) days notice with a proposed effective of June 15, 2001.

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<sup>1</sup> The CCS7 Access Arrangement permits carriers interconnecting with BellSouth to connect SS7 customers directly to the SS7 Signal Transfer Points (STPs) via dedicated facilities in lieu of accessing the STPs via the public switched network. CCS7 provides the signaling set-up, supervision, and release of calls as well as information necessary to route calls to the appropriate service provider. The Tariff also restructures the access service offering to CMRS providers. The rate restructuring converts CMRS access from a flat-rate structure to a mixed flat-rate and message-rate structure.

Petitions for intervention were filed by XO Tennessee, Inc., U.S. LEC of Tennessee, Inc., Leap Wireless International (d/b/a Cricket Communications), and Time Warner Telecom of the MidSouth, L.P. (collectively the "Petitioners") on June 14, 2001.<sup>2</sup> The Petitioners also filed a joint petition to suspend BellSouth's Tariff.<sup>3</sup> The Petitioners asserted that the charges for BellSouth's CCS7 Access Arrangement constitute new charges that CLECs and wireless carriers will be assessed for access to BellSouth's SS7 service. The Petitioners further asserted that these new charges would apply to local traffic and would therefore mandate access charges which would apply in lieu of interconnection agreements. The Petitioners contended that BellSouth cannot identify which SS7 messages are interstate, intrastate, or local. The Petitioners further claimed that BellSouth is already recovering its costs for SS7 through local switching charges and interconnection agreements, but that the Tariff contains no corresponding reduction to local switching to balance the increase which BellSouth will receive if the Tariff is allowed to go into effect.

On June 15, 2001, the Executive Secretary sent a letter to BellSouth requesting a written response to the petitions for intervention and joint petition to suspend the Tariff by June 21, 2001. On June 19, 2001, BellSouth replied requesting additional time to respond, until July 16, 2001, relying on Authority Rule 1220-1-2-.03, which permits a respondent thirty (30) days to respond to a complaint.<sup>4</sup>

At the Authority Conference held on June 26, 2001, the Directors determined that the petitions for intervention were not timely filed in accordance with Authority Rule 1220-1-2-.08

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<sup>2</sup> On July 23, 2001, TeleCorp Communications, Inc. and Tritel Communications, Inc. (collectively "TeleCorp") filed its Petition for Leave to Intervene.

<sup>3</sup> *Joint Petition of XO Tennessee, Inc., US LEC of Tennessee, Inc., Leap Wireless International d/b/a Cricket Communications and Time Warner Telecom of the Mid-South, L.P.*, (June 14, 2001).

<sup>4</sup> Letter from Guy M. Hicks, General Counsel, of BellSouth Telecommunications, Inc. to David Waddell, Executive Secretary, Tennessee Regulatory Authority, June 19, 2001.

and that BellSouth's CCS7 Access Arrangement Service Tariff was in effect. The Directors further decided to consider the petitions for intervention as formal complaints, to shorten the thirty (30) day time period for responding pursuant to Authority Rule 1220-1-2-.22, and to require BellSouth to respond by June 29, 2001.<sup>5</sup> On June 29, 2001, BellSouth filed its *Motion to Dismiss Joint Petition*.

At the Authority Conference held on July 24, 2001, the Directors heard oral arguments on *BellSouth's Motion*. BellSouth asserted that the Petitioners' complaint is without merit because the CCS7 Access Arrangement Service Tariff seeks to institute permissible SS7 charges for non-local intrastate calls pursuant to BellSouth's price regulation plan. BellSouth maintained that SS7 rates for local calls will continue to be determined by approved local interconnection agreements and that, contrary to the Petitioners' assertions, BellSouth's CCS7 Tariff has no bearing on SS7 charges for local traffic. BellSouth contended that the Petitioners' claim concerning BellSouth's inability to identify which SS7 messages are interstate, intrastate, or local is irrelevant because the CCS7 tariff provides that each carrier, and not BellSouth, will determine this breakdown through its PLU (Percent Local Usage) and PIU (Percent Interstate Usage) calculations. According to BellSouth, carriers that are parties to current local interconnection agreements with BellSouth must already calculate a PLU and/or PIU, and the CCS7 Tariff provides for a default PIU of fifty percent (50%) if for some reason the carrier is unable to make its own calculations. With respect to the Petitioners' assertions that BellSouth is currently recovering its SS7 costs through local switching, BellSouth responded that it is allowed to institute these new SS7 charges for non-local intrastate calls pursuant to the state's price

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<sup>5</sup> The Authority's Order memorializing its decision was entered July 2, 2001.

regulation statutes and its price regulation plan. For these reasons, BellSouth argued that the Petitioners' complaint should be dismissed.

The Petitioners argued in support of their complaints that BellSouth is currently recovering its SS7 costs through local switching. The Petitioners asserted that BellSouth is required to make an additional filing to show that it has met the requirements of Tenn. Code Ann. § 65-5-209(g). The Petitioners argued that BellSouth's Tariff constitutes a proposal to increase access charges and that the provisions of Tenn. Code Ann. § 65-5-209(g) state that when there is an attempt to increase an access charge and upon the filing of a complaint related to the proposed increase, the proposed increase or rate adjustment is subject to Authority review and the Authority shall stay the rate adjustment within thirty (30) days of the complaint.<sup>6</sup>

During oral argument BellSouth's counsel characterized the CCS7 Tariff as a price increase for an existing service – continued access to SS7 functionality for nonlocal/intrastate calls – rather than a new service offering as stated in the Tariff filing.<sup>7</sup> Additionally, BellSouth's counsel admitted that calculations demonstrating the CCS7 Tariff's compliance with BellSouth's price regulation plan and related statutes were not submitted as part of its Tariff filing.<sup>8</sup> At the conclusion of arguments, the Directors determined that *BellSouth's Motion* should be held in abeyance to obtain and consider additional information from BellSouth regarding the Tariff.<sup>9</sup>

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<sup>6</sup> Transcript of Proceedings, July 24, 2001, p. 71.


<sup>7</sup> *Id.*, p. 89.

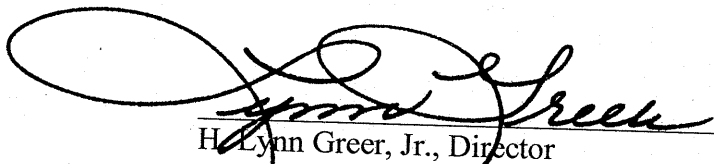
<sup>8</sup> *Id.*, p. 69.

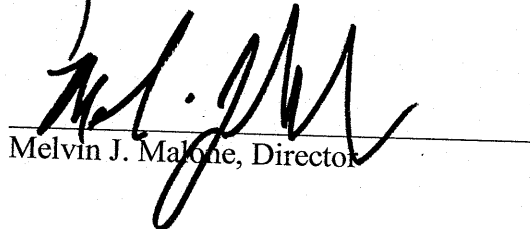
<sup>9</sup> *Id.*, p. 93.

**IT IS THEREFORE ORDERED THAT:**


*BellSouth's Motion to Dismiss Joint Petition* is hereby held in abeyance to permit additional information to be obtained from BellSouth regarding the Tariff.

  
Sara Kyle, Chairman

  
H. Lynn Greer, Jr., Director

  
Melvin J. Malone, Director

ATTEST:

  
K. David Waddell, Executive Secretary